

REMARKS

Examiner has rejected Claims 1-10 under 35 U.S.C. § 102(b) as being anticipated by *Johnson et al.* (6,203,511). In response thereto, Applicant respectfully traverses Examiner's rejection.

Johnson et al. ('511) does teach a pivoting orthotic joint. However, Applicant respectfully asserts that *Johnson et al.* ('511) does not utilize, anticipate, teach or render obvious an orthosis that enables adjustment of a pivot range limit without requiring the use of a tool, and without requiring disassembly of the orthosis. Adjustment of the pivot range limit of the orthotic joint of *Johnson et al.* ('511), as referenced by Examiner, necessitates disassembling of the joint, removing the discs and rotating them relative to each other, and then replacing the discs in the desired orientation to determine the degree of permitted pivotal movement for the patient. See Col. 5, line 66 to Col. 6, line 5. That is, the relative positioning of discs 16 and 18 of *Johnson et al.* ('511) are self-described as being "fixed" when "placed in position and secured in opening 42," via threaded bushing 26 and complementary fastening member 28, wherein each must be fully removed in order to adjust the pivot range.

Applicant's device permits simple and precise adjustment of the pivot range limits in both the extension and flexion direction **without any device disassembly.** That is, the click-stop dials of

Applicant's device are not fixed in a non-adjustable state by the assemblage of the device itself, but are engaged with a unique locking disk 16 that is axially displaceable. It is the available axial movement of locking disk 16 that enables a plurality of engagement options, with individual engagement of either click-stop dial (see *Figures 12B and 12C*), or dual engagement of both click-stop dials (see *Figure 12A*), wherein it is this plurality of engagement options that facilitates the unique adjustability of Applicant's device.

Via rotation of rotating part 18, an individual may axially move locking disk 16 to disengage one or the other click-stop dial, wherein the disengaged dial may then be adjusted to permit the desired pivotal range. Thereafter, locking disk 16 may again be axially moved to re-engage both click-stop dials, wherein the dials are rotationally supported but axially secured relative the central sleeve portion 39 fixed to the bar 2 following pivot range selection. (*See Abstract*)

Thus, the configuration and operation of *Johnson et al.* ('511) is unlike Applicant's device, wherein Applicant's pivot range may be locked and unlocked, and therefore adjusted, via rotational movement of assembled components. Therefore, Applicant respectfully asserts that because the identical invention is not shown, "The identical invention must be shown in as complete detail

as is contained in the...claim," *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989), *Johnson et al.* ('511) does not anticipate Applicant's device.

Further, Applicant's Independent Claim 1 recites the locking disk as "displaceable in the direction of said pivot axis," and describes two positions therefore, including a "blocking position" wherein the click-stop dial is engaged and a "release position" wherein the click-stop dial is disengaged. Because "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," *Verdegaal Bros. V. Union Oil co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987), and because *Johnson et al.* ('511) does not describe each and every element of Applicant's device, notably Applicant's locking disk, Applicant believes that Applicant's Independent Claim 1 is distinguished over *Johnson et al.* ('511).

Applicant believes that the foregoing arguments distinguish the claims over the prior art and establish that Applicant's claimed invention is novel and non-obvious, thereby placing the rejected independent claim 1 and all depending claims in condition for allowance.

CONCLUSION

No new matter has been added. Applicant respectfully believes that the above-made arguments establish that the Claims and application are in condition for allowance. Should the Examiner have any further questions and/or comments, Examiner is invited to telephone Applicant's undersigned Attorney at the number below.

Respectfully submitted, this 3rd day of March, 2006.

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